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**Report of the Head of Strategic Investment**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 15-Mar-2018**

**Subject: Planning Application 2017/93714 Change of use of hairdressers to self contained flat and alterations 114, Brewery Lane, Thornhill Lees, Dewsbury, WF12 9HG**

**APPLICANT**

B Mohyuddin

**DATE VALID**

27-Oct-2017

**TARGET DATE**

22-Dec-2017

**EXTENSION EXPIRY DATE**

19-Mar-2018

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral Wards Affected: Dewsbury South**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report.**

**1.0 INTRODUCTION:**

- 1.1 This application was initially reported to the Heavy Woollen Planning Sub-Committee following a request by Councillor Gulfam Asif who stated:

*“The reasons for this application be referred to the planning committee is lack of parking on site and highway safety”.*

- 1.2 Following deferral of the application at the Heavy Woollen Planning Sub Committee held on 25 January 2018, Cllr Asif has withdrawn his objections to the planning application but it is still appropriate for committee to continue to determine this application.
- 1.3 Members of the Heavy Woollen Planning Sub-Committee carried out a site visit on 25 January 2018, prior to deferring the application.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 No. 114 Brewery Lane, Thornhill Lees is a single storey building constructed of natural stone with pitched slate roof, located close to the junction of Brewery Lane with Lees Hall Road, Thornhill Lees. The property has a surfaced parking area to the rear of the building, accessed off Brewery Lane. The site of the proposed flat is located within an area of mixed uses, incorporating both commercial and residential uses, approximately 400m from the local centre of Thornhill Lees.
- 2.2 Surrounding the site is predominantly residential with a mixture of residential properties within the immediate area. These include properties constructed of a mixture of materials, some of which have been extended (see planning history section of this report). To the rear of the site is Thornhill Lees Wesley Methodist Church which is now an Education Centre.

### **3.0 PROPOSAL:**

3.1 Planning permission is sought for the change of use of hairdressers' salon to flat. Each element of the proposal will be discussed below.

#### **3.2 Change of use**

The use of the building is proposed to change from a hairdressers' salon to a one bedroom flat. The flat would consist of a living kitchen area, a bedroom, and a shower room.

#### **3.3 External changes**

To the front elevation, there will be no changes. To the rear elevation of the building, the existing door opening will be blocked up and replaced by a window opening serving the proposed shower room.

### **4.0 RELEVANT PLANNING HISTORY:**

4.1 2015/91461 – Change of use from a hairdressing salon (class A1) to taxi booking office (class B1) with associated parking at Lock Street. APPROVED (decision at committee) at no. 114 Brewery Lane.

4.2 2017/93013 – Alterations to convert hairdressers to flat INVALID (incorrect certificate and red line boundary) at no. 114 Brewery Lane.

4.3 2008/92802 – Erection of two storey extension APPROVED (no. 106 Brewery Lane)

4.4 2014/93706 – Erection of an internal first floor mezzanine, two entrances and fire escape, erection of ground floor extensions, alterations to the building and car park layout and conversion of outbuilding to body wash room APPROVED (Education Centre, Lees Hall Road).

### **5.0 HISTORY OF NEGOTIATIONS:**

5.1 No amendments to the scheme have been secured as officers consider that the proposal is acceptable in its current form. This is following a previously withdrawn application as the red line boundary and certificates were incorrect.

### **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with

the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

## 6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

**D2** – Unallocated land  
**BE1** - Design principles  
**BE2** – Quality of design  
**BE12** – Space about dwellings  
**T10** – Highways Safety  
**T19** – Parking Provision  
**EP4** – Noise sensitive and noise generating development  
**G6** – Contaminated Land  
**H8** – Conversion to residential  
**B4** – Premises and sites with established use, or last used, for business and industry

## 6.3 National Planning Policy Framework (NPPF):

**Chapter 6** – Delivering a wide choice of high quality homes  
**Chapter 7** – Requiring good design  
**Chapter 11** – Conserving and enhancing the natural environment

## 6.5 Kirklees Publication Draft Local Plan: Submitted for examination April 2017 (PDLP)

**PLP2** – Place Shaping  
**PLP21** – Highway Safety and Access  
**PLP22** - Parking  
**PLP24** – Design  
**PLP51** – Protection and improvement of local air quality  
**PLP53** – Contaminated and unstable land

## 7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 Two representations have been received as a result of the initial publicity period. No further representations have been received as a result of the extended publicity. Representations are summarised below and are addressed in section 10.0 of this report.

- Why does he need parking space for 4 vehicles? There is only a small space at the back (there is a back door there).
- Enough vehicles parked around here as it is – people going to the mosque and the barbers. Our visitors cannot find anywhere to park – where is the applicant going to park 4 cars.
- Son had car scratched all the way down one side
- Query relating to applicant demonstrating that notice has been served.

- Why should anyone be put to expense/inconvenience to prove right of access?
- Original claim untrue/ red line remains visible
- Highways safety schemes proposed in the area but officers approving further residential development/ parking concerns relating to visitors parking close to the junction.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

**K.C Environmental Health (pollution and noise)** – no objection subject to conditions relating to contaminated land and electric charging points.

*Officer comment: There will be no parking on the site and therefore the electric charging point is not required.*

**K.C Highways Development Management** – no objection.

### 8.2 Non-statutory:

None

## 9.0 MAIN ISSUES

- Principle of development
- Visual amenity/local character
- Residential amenity
- Highway issues
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

10.1 The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. Subject to other material considerations being addressed, the proposed change of use would be acceptable in principle in relation to policy D2.

10.2 The general principle of changing the use of a building from a hairdressing salon to a flat is considered acceptable by officers. Policy H8 of the UDP sets out that ‘*the change of use of buildings to residential use will normally be permitted subject to employment, environmental, amenity and traffic considerations*’. With Policy B4 of the UDP relating to premises last used for business use. In this instance, the application site is located within a sustainable location in close proximity to the Thornhill Lees local centre. The application site is also in close proximity to other residential properties and therefore its proposed use is compatible with the surrounding uses. Therefore compliant with the aims of policies D2, H8, and B4 of the UDP, as well as paragraph 49

of the NPPF which sets out that 'housing applications should be considered in the context of the presumption in favour of sustainable development'. As well as paragraph 51 of the NPPF which sets out that '*local planning authorities should . . . bring back into residential use empty . . . buildings*' and that '*they should normally approve planning applications for change to residential use and any associated development from commercial buildings . . .*'

### **Visual amenity/local character:**

- 10.3 The impact on visual amenity is acceptable. The external alterations to the property would be concentrated on the rear elevation. The replacement of the door to a window is considered to be a very minor change to its appearance and, given its materials, scale and design, which matches the existing openings, would not be an incongruous feature that would detract from the character of the building. It would not be visible in the streetscene and would not change the appearance of the building very significantly.

### **Summary**

- 10.4 In all, given that the main component of this application relates to the change of use and there are not many external changes required to facilitate this, the proposal is acceptable in terms of visual amenity. The proposal is considered to comply with the aims of policies D2, BE1, BE2 and Chapter 7 of the NPPF as well as policy PLP24 of the Kirklees Draft Publication Local Plan.

### **Residential Amenity:**

- 10.5 The impact on residential amenity is acceptable. One objection has been received as a result of the statutory publicity.
- 10.6 Following a formal consultation with K.C Environmental Health, there is no objection relating to noise/pollution.
- 10.7 Given that there are no external extensions, there would be no overbearing impact on neighbouring dwellings.
- 10.8 Policy BE12 relates to space about dwellings. In this case, there are two habitable room windows in the front elevation which face onto Brewery Lane, with the closest neighbouring property being no. 242/244 Lees Hall Road. There is an indirect relationship with these properties which do not have openings in their side elevation. Given that there is no window-window relationship, 12 metres is required to comply with UDP policy BE12. In this case, there is a distance of 25 metres between the sites, officers consider that there will be no overlooking/loss of privacy and the proposal complies in this regard.
- 10.9 With regards to the openings to the rear of the site, there is a living kitchen and shower room area. A condition has been recommended to ensure that the shower room is obscurely glazed. The living kitchen window will not overlook residential properties. Instead, it faces the hardstanding area of the building which is used as an education centre. This area of hardstanding is visible from the streetscene (not private amenity space) and there is a stone wall between the sites. Officers consider that there will be no overlooking/loss of privacy. There is a distance of at least 1.5 metres which is the distance stipulated in UDP policy BE12.

### Summary

10.10 To conclude, officers consider that the proposal complies with UDP policy BE12 and D2, as well as policy PLP24 of the PDLP, and would not cause harm to residential amenity to surrounding properties by virtue of overbearing or an overlooking impact.

### **Highway issues:**

10.11 Following a formal consultation with Highways Development Management (HDM), there is no objection to the proposal.

10.12 In order to allow the development to strictly comply with the standards set out in UDP Policy T19 and policy PLP22 of the Kirklees Publication Draft Local Plan, one parking space would be recommended to serve the proposed development.

10.13 During the course of the application, concern was raised through the representations about the ability of the applicant to park on land solely within his ownership and in the position shown on the originally submitted plan. A further Officer site visit was undertaken and officers were also of the opinion that the dimensions shown on plan were not adequate to allow a car to park efficiently without encroaching onto third party land.

10.14 HDM reviewed the application further and it was noted that the application site had previously been granted planning permission for a taxi booking office and the site's previous use was as a hairdressers' salon. Officers consider that the existing A1 use of the site would be more intense in terms of the number of vehicles coming and going at the site. As such, the proposal to change the use of the premises to a one bedroom residential unit would represent a less intensive use than what could be lawfully implemented (e.g. Uses falling within Class A1 of the Use Classes Order) as well as previously permitted on the site (e.g. the taxi booking office).

10.15 Furthermore, the site is in a sustainable location approximately 400 metres away from Thornhill Lees town centre. Officers take the view that, due to the small scale of the development and its sustainable location, the requirement for a car parking space within the site is not entirely necessary to allow the development to be acceptable.

10.16 However, if parking on the site is considered necessary by members, one car parking space could be accommodated within the rear yard by removing the lean-to outbuilding, with the possibility of further car parking provision within the wider red line boundary, albeit on land outside of the applicants ownership.

10.17 In summary, the officers are of the opinion that the proposal, without off-street car parking, would not materially add to any undue highway safety implications and will comply with UDP policy T10 and policy PLP21 of the PDLP.

10.18 The Council's Highway Safety team has also been consulted on the application and they have no objection to the proposal. It is noted that there are highway safety schemes proposed on Lees Hall Road but this change of use proposal is not considered to compromise this.

## Summary

- 10.19 For the above reasons, there will be no highways safety issues over and above the existing situation. Taking into account the above information, the proposal is considered to comply with UDP policy T10 as well as PLP21 of the Kirklees Publication Draft Local Plan.

## Other matters

- 10.20 The following sets out clarification for members in relation to various procedural matters in respect to the description of development and regulations regarding amendments to an application following the advertisement period.

10.21 **(i) The description of applications in relation to registered use.**

**Response:** With regard to planning law, this relates to the last 'lawful use'. A use can be lawful through the approval and lawful implementation of a planning application; through a permitted change of use (via the Town & Country Planning (Use Classes) Order; or through immunity e.g. if the use has taken place for 10 years or more. With regard to the lawful implementation of a planning application; this means that any conditions attached to a planning permission should be discharged and complied with too. In this instance, a 12 month temporary permission for the taxi booking office was granted on 7 March 2016 (thus ended on 6 March 2017). In relation to temporary permissions, Section 57(2) of the Town & Country Planning Act sets out "where planning permission to develop land has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of its use for the purpose for which it was normally used before the permission was granted". The lawful use of this site is therefore as a hairdressers, or any use falling within Class A1 of the Town and Country Planning (Use Classes) Order.

10.22 **(ii) Regulations regarding amendments to the application following the advertisement period.**

**Response:** The Local Planning Authority should be satisfied that the description of development provided by the applicant is accurate. The Local Planning Authority should not amend the description of development without first discussing any revised wording with the applicant or their agent. Checking the accuracy of the description should not delay validation of an application. (*Planning Practise Guidance*).

It is possible for an applicant to suggest changes to an application before the Local Planning Authority has determined the proposal. It is equally possible after the consultation period for the Local Planning Authority to ask the applicant if it would be possible to revise the application to overcome a possible objection. It is at the discretion of the Local Planning Authority whether to accept such changes, and to determine if the changes need to be re-consulted upon. (*Planning Practise Guidance*). The Council's Development Management Charter is consistent with the above and can be viewed using the following link:- <http://www.kirklees.gov.uk/beta/planning-applications/pdf/developmentmanagement-charter.pdf>.



10.23 In this instance, the agent has provided amended plans and a revised application form which remove any reference to parking on the site. The amended details have been re-advertised with the closing date for comments being 27 February 2018. To date, no further representation has been received.

### **Representations**

10.24 Two representations have been received as a result of the initial publicity period. Officers respond to the issues raised as follows:

- Why does he need parking space for 4 vehicles? There is only a small space at the back (there is a back door there).  
**Officer response:** *See highway safety section of this report. Following the receipt of amended plans, the applicant is not showing any parking within the site.*
- Enough vehicles parked around here as it is – people going to the mosque and the barbers. Our visitors cannot find anywhere to park – where is the applicant going to park 4 cars.  
**Officer response:** *parking provision is assessed in the highway safety section of this report. No parking is shown to be provided on site following the receipt of amended plans.*
- Son had car scratched all the way down one side  
**Officer response:** *this is not a material planning consideration.*
- Query relating to applicant demonstrating that notice has been served.  
**Officer response:** *there is no demand on a developer to provide confirmation of this.*
- Why should anyone be put to expense/inconvenience to prove right of access?  
**Officer response:** *matters relating to land ownership are not a material planning consideration.*
- Original claim untrue/ red line remains visible  
**Officer response:** *ownership certificate B has been signed and therefore the application is now valid.*
- Highways safety schemes proposed in the area but officers approving further residential development/ parking concerns relating to visitors parking close to the junction.  
**Officer response:** *this is covered in the highway safety section of this report.*

No further representations have been received as a result of the extended publicity period.

## **11.0 CONCLUSION**

11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations and it is considered that the development would constitute sustainable development and is therefore recommended for approval.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)**

1. 3 year time limit to commence development
2. Development carried out in accordance of approved plans
3. Reporting of unexpected contamination
4. Footnote re hours of construction
5. Shower room window obscurely glazed
6. Footnote re ownership/ legal issues

**Background Papers:**

Link to the application details:-

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017/93714>

Certificate of Ownership – Certificate B signed and dated 28<sup>th</sup> September 2017. Notice was served on Mrs M Newall of 248 Lees Hall Road, Thornhill Lees.